

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
September 27, 2021

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Monday, September 27, 2021. The Board met in compliance with Chapter 417 of the Laws of New York 2021. The meeting was called to order at 1:16 P.M.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary Frederick G. Floss
Director Andrew A. SanFilippo
Mayor Byron W. Brown (proxy Estrich)
County Executive Mark C. Poloncarz (proxy Swanekamp)

Board Member(s) Excused

Chair R. Nils Olsen, Jr.

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Liaison Bryce E. Link
Senior Analyst II/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita M. Fortune
Comptroller Claire A. Waldron

Additionally Present

Richard A. Grimm, III, Esq., Magavern Magavern & Grimm LLP
Sara M. Dayton, CPA, Partner, Lumsden & McCormick, LLP
Elizabeth S. Krause, CPA, Manager, Lumsden & McCormick, LLP

Opening Remarks

Chair Pro Tem Floss welcomed everyone to the meeting and reviewed the agenda. The Audit, Finance and Budget Committee met earlier today and recommended that the full Board approve the draft BFSA 2021 audited financial statements as provided by Lumsden & McCormick, LLP, as well as the 2021 BFSA Annual Report.

Chair Pro Tem Floss asked the Directors to review the proposed 2022 Board meeting calendar and inform BFSA Executive Director Jeanette Robe of any scheduling conflicts. The final schedule will be approved at the December Board meeting.

A representative from the City of Buffalo (“City”) will present the City’s American Rescue Plan Act (“ARPA”) Recovery Plan. The final item is to review and comment on a proposed labor agreement between the Buffalo City School District (“BCSD”) and AFL-CIO, Local 264.

Chair Pro Tem Floss stated privilege of the floor regarding the meeting’s agenda items will be held at the conclusion of the meeting per the instructions posted on the BFSA website.

Roll Call

Chair Pro Tem Floss asked Executive Director Robe to call the roll; a quorum being present the meeting commenced.

City of Buffalo Commissioner of Finance, Administration, Policy and Urban Affairs, Ms. Donna Estrich, represented Mayor Byron W. Brown, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Erie County Deputy Budget Director, Benjamin Swanekamp, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSA Act reads: "...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City or County, shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the signal designee...."

Approval of Minutes

Chair Pro Tem Floss advanced the agenda to introduce Resolution No. 21-22: "Approval of August 12, 2021 Meeting Minutes and Resolutions," and asked for a motion to approve.

Interim Vice-Chair Jurasek made a motion to approve the resolution.

Mayor Brown seconded the motion.

The Board voted 5-0 to approve Resolution No. 21-22.

BFSA Business

BFSA Fiscal Year ("FY") 2020-21 Independent Audit and 2021 Annual Report

Chair Pro Tem Floss advanced the agenda and stated that the Audit, Finance and Budget Committee approved a motion to forward the FY 2020-21 Independent Audit to the full Board with a recommendation to approve. He introduced Resolution No. 21-23, "Approve Independent Audit Report & Annual Report for Fiscal Year 2020-21." The 2021 BFSA Annual Report was additionally reviewed during the Audit, Finance and Budget Committee. The Committee recommended Board approval of the item with authority being delegated to the Chair, Interim Vice Chair, Executive Director and Comptroller to make any necessary changes for accurate completion. He noted BFSA is required to file both items with the New York State ("NYS") Comptroller's Office. Additionally, these items will be submitted to various state and local officials and posted to the BFSA website. Ms. Sarah Dayton was present to answer questions of the Board. Chair Pro Tem Floss asked if Directors had question for Ms. Dayton regarding the Independent Audit or Ms. Robe regarding the BFSA 2021 Annual Report.

Hearing no questions or comments Chair Pro Tem Floss asked for a motion to approve the resolution.

Director SanFilippo made a motion to approve the resolution.

Interim Vice-Chair Jurasek seconded the motion.

The Board voted 5 to 0 to approve the motion.

Chair Pro Tem Floss thanked the BFSA staff and Lumsden and McCormick for their hard work on the Independent Audit and Annual Report.

Director SanFilippo asked if the full Board will review the annual Investment Report and the contract retaining Public Finance Management (“PFM”). Ms. Robe stated the items referenced are committee items only and not brought before the full Board as the contract is an extension and is therefore a committee item. Director SanFilippo questioned if contracts and vendor approvals should be brought before the full Board for approval and asked for a legal opinion. BFSA Legal Counsel Rich Grimm stated he will provide a legal opinion once he completes additional research on the matter. Director SanFilippo asked that the contract with PFM be held in abeyance until the legal opinion is received at the next full Board meeting on December 15, 2021. Mayor Brown (Proxy Estrich) suggested a short-term extension of the contract as it is set to expire on September 30, 2021.

Chair Pro Tem Floss requested a motion to extend the current PFM contract until December 31, 2021.

Mayor Brown made the motion as requested.

Interim Vice-Chair Jurasek seconded the motion.

Discussion ensued. Chair Pro Tem Floss stated past practice of the Board has been to approve the aforementioned items in Committee without objection and agreed on the importance of obtaining a legal opinion.

The Board voted 4 to 1 and did not pass as Director SanFilippo voted in the negative.

Mr. Grimm stated he will expedite the requested legal opinion to determine if contracts are able to be approved in committee and do not require full Board approval. Chair Pro Tem Floss asked Directors to be willing to hold a Special Meeting to approve the PFM contract if the legal opinion supports approval at the full Board level.

City of Buffalo (“City”)

American Rescue Plan Act Spending Discussion

Chair Pro Tem Floss advanced the agenda to review the spending of the federal American Rescue Plan Act (“ARPA”) funds as presented in the City’s Recovery Plan. The Recovery Plan as submitted to the BFSA does not provide adequate resources for revenue replacement as included over the financial plan. The shortfall over the City’s four-year financial plan is \$19.7M. It is anticipated the Recovery Plan will be amended for necessary adjustments in the second quarter. Ms. Donna Estrich began the discussion explaining the process of the ARPA plan development and the initial submission to the Department of the Treasury.

The expectation is to spend all ARPA funding with memorandums of understanding (“MOU”) being entered into with community agencies. Chair Pro Tem Floss highlighted the responsibility of the BFSA to ensure all money is used and appropriately accounted for. Ms. Estrich then introduced City Policy Director Rob Mayer to present on the Recovery Plan.

Mr. Mayer gave an overview of the thirty-seven page plan of the City’s ARPA spending blueprint (available on the City website) based on three key assumptions:

- The funding is flexible
- The funds are meant to avoid the problems with 2009 American Recovery and Reinvestment Act (“ARRA”) funding that left state and local governments without significant financial assistance and therefore slowed economic recovery
- Proposed interventions are outcome-based as opposed to delivery-based

The City was awarded \$331M in ARPA funding to be delivered in two disbursements; half received in 2021 and the other half in May 2022. The funds must be committed by December 31, 2024 and completely spent down by December 31, 2026. Mr. Mayer stated the focus of addressing economic issues of the City’s low-to-moderate income residents will in turn aid in addressing fiscal issues of the City. Mr. Mayer then offered to answer any questions.

Director SanFilippo asked what the criteria is for families to receive assistance. Mr. Mayer stated each program will be administered differently. Water and sewer debt forgiveness will have a “back-owed” threshold established for those owing at least three months of payments. Wraparound services funds will be provided to residents who enroll in job training programs. Each program will establish its own selection criteria. The City will not set up a centralized database of possible recipients as it will be left to the service providers to ensure the eligibility criteria is met.

Chair Pro Tem Floss asked if funding for media is available to disseminate information and for community outreach efforts. Mr. Mayer replied administrative funds are available for the individual programs to advertise their programs.

Interim Vice-Chair Jurasek asked when a revised four-year financial plan will be submitted. Ms. Estrich responded one may be submitted in January 2022.

An open discussion continued.

Hearing no additional questions Chair Pro Tem Floss thanked Mr. Mayer for attending and advanced the agenda.

Buffalo City School District (“District”/ “BCSD”)
Proposed Labor Agreement with Local 264, AFL-CIO

Chair Pro Tem Floss stated the labor agreement was submitted to the BFSA for review on September 10, 2021 as required by the BFSA Act and asked BFSA Senior Analyst Nathan Miller to begin his presentation.

Mr. Miller provided the following overview:

Introduction

- Covers the District's Blue-Collar employees
 - Currently 55 FTEs
 - Includes mechanics, maintenance personnel, drivers, technicians, laborers, and stock clerks
 - It is estimated that 97% is funded through the General Fund
- Local 264 is operating under a labor agreement that expired 6/30/2013
- The proposed CBA would be effective through 6/30/2025
- Buffalo Board of Education to consider the contract on October 20, 2021
- Once the contract is ratified there will be an immediate \$500 base salary increase for all employees which increases the average base salary by approximately \$5,500, or 13.9%
- There is an average annual increase of 2% for 7/1/13 through 6/30/25
- A one-time incentive bonus for all full-time blue-collar employees is established based on the number of years of service attained by 9/1/21. The bonus ranges between \$1,000 for 1 to 5 years of service, up to \$3,000 for more than 20 years of service; 54 out of 55 FTE will receive a bonus
- Annual longevity payments would be increased ranging from \$500 to \$2,500 depending on the years of service; 51 of 54 FTEs will receive longevity pay in FY 2021-22
- No health insurance terms are changed for active employees or retirees because of this agreement; however, new employees hired on or after 10/1/21 will be ineligible for District funded health insurance at retirement. Savings from this change will not be realized prior to 10/1/36

Cost Analysis

- The District estimates the CBA's FY 2021-22 incremental cost will be \$632,288 All Funds ("AF") and \$613,319 General Funds ("GF")
- The impact over the 2022-2025 Financial Plan is estimated at \$2,719,917 (AF) and \$2,638,282 (GF)
- The CBA does not include any significant cost-saving measures

Director SanFilippo asked if there is a retroactive payment component and what the cost of living equates to over the last eight years that the unit has been out of contract. Mr. Miller advised no retroactive payments are included. Director SanFilippo stated the cost of living has increased by 17.56% since 2013, therefore, this contract does not keep up with inflation.

Hearing no additional questions or comments, Ms. Robe began her presentation regarding funding of the contract. Ms. Robe stated the following contracts were recently settled:

- July 2021 – BEST (teacher aides, teaching assistants and healthcare aides)
- August 2021 – BASA (substitute administrators) and TAB (transportation aides)

The following contracts are proposed:

- September 2021 – Local 264 (blue-collar) and Local 264 (food service workers, cooks, summer program workers) it was noted that the food service contract only effects The Food Service Fund.

The total incremental cost of the four contracts (BEST, BASA, TAB, and Local 264 blue-collar) equates cumulatively to \$29.5M over the 2022-2025 Financial Plan. BFSA determined that sufficient funds were identified to address the prospective costs of the contract; the District previously committed to submitting a revised Financial Plan by November 30, 2021.

Summary and Recommendation

The District's 2021-22 budget and 2022-2025 financial plan will require modification to address the total cumulative incremental costs of these four contracts. The funding submission by the District appears to support the District's assertion that these four labor contracts can be paid from existing resources. The financial analysis performed by BFSA indicates an increased reliance on fund balance for year 4 of the financial plan; this nonrecurring source for the use of recurring expenditures is indicative of an operational imbalance. The amount is not financially significant to the financial plan taken as a whole; however, as remaining outstanding labor contracts are potentially settled, the financial impact and related funding should be determined, and a revised financial plan submitted as required to reflect incremental costs and/or significant changes over the existing plan. The BFSA Board of Directors previously required the submission of a modified financial plan to solidify the BEST Successor Agreement funding plan. It is recommended that the Modified Financial Plan additionally include the Local 264 Successor Agreement's budgetary impact.

Chair Pro Tem Floss asked that the Local 264 Food Service Worker labor agreement be examined with respect to the City's Living Wage Ordinance.

Hearing no additional questions or comments, Chair Pro Tem Floss asked for a motion to approve the report as submitted and remitted to the Superintendent and the Board of Education.

Director SanFilippo made the motion as requested.
Interim Vice-Chair Jurasek seconded the motion.

The Board voted 5 to 0 to approve.

New Business

Chair Pro Tem Floss asked if there was any new business to discuss.

Hearing none Chair Pro Tem Floss advanced the agenda to the public comment period or privilege of the floor. No attendees were in the room to comment so he then asked for a motion to adjourn, as no comments were submitted via the instructions included on the BFSA website.

Interim Vice-Chair Jurasek made a motion to adjourn.
County Executive Poloncarz (Swanekamp) seconded the motion.

The Board voted 5 to 0 to adjourn.
The Board adjourned at 2:34 P.M.